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**STANDARDS OF ASSISTANCE  
HARDSHIP SUPPLEMENTAL PAYMENTS**

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.1 Definitions

- (a) "Reduced Income Supplemental Payment" means a payment issued to help maintain an AFDC assistance unit during the time it takes for the assistance payment to reflect a change in income. Reduced income supplemental payments are made to assistance units which experience a decrease or termination of reported income, as defined in MPP Section 44-402.22, which leaves the assistance unit needy as a result of the time lag inherent in the retrospective budgeting process. New or increased allowable disregard amounts in the reduced income supplemental payment month may result in eligibility for a reduced income supplemental payment.
- (b) "Reduced Income Supplemental Payment Month" means the month in which the reduced income supplemental payment is requested and for which eligibility for the reduced income supplemental payment exists.
- (c) "Net available income" means the actual income, including the retrospectively budgeted grant, available to the assistance unit for living expenses in the Reduced Income Supplemental Payment Month. See Section 44-402.2.

.2 General

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- .21 There is no federal financial participation available for Reduced Income Supplemental Payments.

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- .1 An assistance unit shall not be eligible for a reduced income supplemental payment if the assistance unit's total estimated net nonexempt income for the reduced income supplemental payment month is the same as, or greater than, the total net nonexempt income budgeted from the corresponding budget month.

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(See Section 44-113 for computation of net nonexempt income.)

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- .11 Repealed by Manual Letter No. EAS-87-03, effective May 13, 1987.
- .2 An assistance unit shall be eligible for a reduced income supplemental payment if its estimated net nonexempt income for the reduced income supplemental payment month is lower than its reported net nonexempt income in the corresponding budget month and if the following conditions are met:
- .21 The assistance unit is eligible for AFDC in the reduced income supplemental payment month or the assistance unit is in a month of suspension resulting from the receipt of income.
- .22 The estimated net available income for the reduced income supplemental payment month is less than 80 percent of the MAP for the assistance unit.

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(See Section 44-402.2 regarding net available income.)

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- .23 The assistance unit has requested the reduced income supplemental payment in the same month in which eligibility for the reduced income supplemental payment exists. The month in which eligibility exists is the reduced income supplemental payment month.
- .231 The assistance unit shall use the AFDC Reduced Income Supplemental Payment Request form (CA 40) to request the reduced income supplemental payment.
- .232 The date of receipt of the CA 40 shall be determined as follows:
- (a) If the recipient hand-delivers the CA 40 to the CWD, the date the CWD receives the request shall constitute the date the request is made.
- (b) If the CA 40 is mailed, the date of postmark shall constitute the date the request is made. When the postmark is illegible and the CWD receives a CA 40 for a reduced income supplemental payment for the current month, the CWD shall presume, in the absence of other evidence, that such request was made during the current month if the CA 40 is dated in the current month. When the postmark is illegible and the CWD receives a CA 40 for the prior month, the CWD shall presume that the recipient made a request during the prior month if the CA 40 is received by the CWD by the second postal delivery day of the current month and the CA 40 is dated in the prior month.

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.233 Such a request shall provide the CWD with the following information:

- (a) All information necessary for the CWD to estimate the reduced income supplemental payment month's income and circumstances, to the extent that the recipient is able to provide such information.
- (b) Adequate verification of the expected drop in income, if available to the recipient; if unavailable, the recipient shall authorize the CWD to obtain verification. Where verification is unobtainable, the CWD may accept the declaration in (c) below in lieu of verification.

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(See Section 40-157.2 for more detail on procedures for gathering evidence.)

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- (c) A declaration under penalty of perjury that, to the best of the recipient's knowledge, the information provided is true and correct. The Reduced Income Supplemental Payment Request form (CA 40) shall be sufficient for this purpose.

- .3 Eligibility for a reduced income supplemental payment shall be determined for each request.
- .4 No more than one reduced income supplemental payment per month may be granted to an assistance unit even if the actual net available income is lower than estimated. However, if there is an error in the computation of the net available income, the reduced income supplemental payment shall be corrected.
- .5 If a reduced income supplemental payment is granted in a suspense month because of a significant drop in the family's income, aid payments for the two months following the suspension shall be computed using prospective budgeting.

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(See Section 44-315.63.)

- .51 In these circumstances, a reduced income supplemental payment would not be made in the month following the suspension.

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- .6 No reduced income supplemental payment shall be made to any assistance unit when such payment would be counted as income under the federal AFDC program.
- .7 The needs of any person who has been excluded from the assistance unit shall not be considered when computing the reduced income supplemental payment for the remaining eligible members of the assistance unit.

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For example, see MPP Section 43-107.47.

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<b>44-402</b>	<b>COMPUTATION OF A REDUCED INCOME SUPPLEMENTAL PAYMENT</b>	<b>44-402</b>
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- .1 A reduced income supplemental payment shall equal the difference between 80 percent of the AU MAP level minus the family's available net **nonexempt income** estimated for the reduced income supplemental payment month.

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- .11 See Section 44-315.311 for the current 80% of MAP amounts.

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- .12 When the subtraction of the net available income from 80 percent of the MAP level results in zero or less than zero, there shall be no reduced income supplemental payment.
- .2 Net available income is determined by adding the retrospectively budgeted grant amount as described in Section 44-402.21 to the estimated other available income, as described in Section 44-402.22.
  - .21 The total grant amount, in accordance with Section 44-315.43, retrospectively budgeted from the budget month to the payment month, that the assistance unit would otherwise receive with the following exceptions:
    - .211 Special needs shall not be considered part of the grant amount for the payment month. This includes recurring special needs, nonrecurring special needs and the pregnancy special need payment.

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- .212 The amount that would otherwise be adjusted to recover an overpayment shall not be considered when considered the amount for the payment month.

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Note: Any overpayment recoupment that was based on retrospectively budgeted income that is not available in the payment month shall be corrected in accordance with MPP Section 44-352.4.

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- .213 Any portion of the grant which represents a child support penalty shall not be considered when computing the grant amount for the payment month.
- .22 The total net nonexempt income estimated to be available in the reduced income supplemental payment month shall be established in accordance with the income definitions in Chapter 44-100 plus the \$50 child/spousal support disregard.
- .3 The ten dollar (\$10) payment limit specified in Section 44-315.5 shall not apply to the reduced income supplemental payments.
- .4 Liquid resources and underpayment adjustments for prior months shall not be considered net available income.
- .5 A reduced income supplemental payment shall not be considered income when calculating the amount of the grant to be paid in future months.
- .6 No overpayment or underpayment shall be assessed against a reduced income supplemental payment which was correctly computed based on the assistance unit's reasonable estimate of expected income and other circumstances for the reduced income supplemental payment month.

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.7 Example of Reduced Income Supplemental Payment Issuance:

An AU of two, a mother and one child, nonexempt and residing in Region 1, has a grant of \$188 in January. The mother's hours of employment are reduced effective December 31 of the preceding year. She was receiving \$500 a month but her wages were reduced to \$295 and she expects no additional income in January. She receives \$50 child support disregard per month from the county welfare department for child support received by the county. The mother applies for a RISP on January 8. The county determines that there is a decrease in net nonexempt earned income from November to January.

Computation:

Step 1 - Computing Total Available Income

\$ 295	Estimated earned income in January
- 225	Income Disregard
\$ 70	Subtotal
- 35	50% Earned Income Disregard
\$ 35	Net Nonexempt Income
+188	Aid in January (before overpayment adjustment, if applicable)
+ 50	Child Support Disregard received in January
+ 35	Net nonexempt income
\$ 273	Total available income in January

Step 2 - Computing RISP Payment

\$ 394	80% of AU MAP (\$493) for two
- 273	Minus Total Available income
\$ 121	Reduced Income Supplemental Payment

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NOTE: Authority cited: Sections 10553, 10554, 11450, and 11453, Welfare and Institutions Code. Reference: Sections 11008, 11017, 11255, 11450, 11450.015, 11450.12, 11450.2, and 11451.5, (Ch. 270, Stats. 1997), Welfare and Institutions Code; 45 CFR 237.27; Federal Terms and Conditions for the California Assistance Payments Demonstration Project as approved by the United States Department of Health and Human Services on October 30, 1992; and Letters from the Department of Health and Human Services, Administration for Children and Families, dated February 29, 1996, March 11, 1996, and March 12, 1996.



<b>44-403</b>	<b>CWD RESPONSIBILITIES</b>	<b>44-403</b>
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- .1 The CWD shall send the CA 40, AFDC Reduced Income Supplemental Payment Request, to assistance units when one of the following circumstances occurs:
  - .11 The CA 40 shall be given to any assistance unit which has reported income verbally or in writing. The CA 40 shall be sent monthly to all assistance units which have reported income on the Monthly Eligibility Report and for two months following the month in which the income stops.
  - .12 The CA 40 shall be given to any recipient upon the recipient's request.
  - .13 The CA 40 shall be given to any recipient indicating a loss of income. However, if the CWD has already provided the assistance unit with the CA 40 for the month based on income reported on the Monthly Eligibility Report, the CWD is not required to send the recipient another CA 40, unless the recipient so requests.

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- .2 The CWD may send the CA 40 to all assistance units.

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- .3 The CWD shall inform the recipient that receipt by the CWD of the properly completed CA 40 is necessary before eligibility for a reduced income supplemental payment can be determined and such payment can be issued pursuant to this Chapter.
- .4 If the CWD receives an incomplete CA 40 the CWD shall contact the recipient as soon as possible in order to obtain the necessary information and/or verification. The CWD shall employ the principles and methods specified in Section 40-157 in verifying eligibility for a reduced income supplemental payment and afford the recipient the protections specified in Section 19-007.1.
- .5 The CWD shall deny the application for a reduced income supplemental payment if the application provided by the assistance unit is incomplete to the extent that the CWD cannot make an eligibility determination and the CWD's effort to obtain the information is unsuccessful.
- .6 The CWD shall issue a reduced income supplemental payment within seven working days after the date the request was received if the assistance unit is determined to be eligible for the reduced income supplemental payment. The CWD shall issue a Notice of Action denying a reduced income supplemental payment within seven working days of the date the CWD receives the request if the assistance unit is determined to be ineligible for a reduced income supplemental payment. The day the CA 40 is received by the CWD is the date of receipt; the day following the date of receipt is the first day of the seven-day processing period.

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**STANDARDS OF ASSISTANCE  
SUPPLEMENTAL CHILD CARE PROGRAM**

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Entire chapter repealed by Manual Letter No. EAS-98-05, effective 12/29/98.

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**CHAPTER 44-500 SUPPLEMENTAL CHILD CARE (SCC) PROGRAM**

Repealed by Manual Letter No. EAS-98-05, effective 12/29/98.

<b>44-501</b>	<b>INTRODUCTION TO SUPPLEMENTAL CHILD CARE</b>	<b>44-501</b>
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Repealed by Manual Letter No. EAS-98-05, effective 12/29/98.

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Repealed by Manual Letter No. EAS-98-05, effective 12/29/98.

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Repealed by Manual Letter No. EAS-98-05, effective 12/29/98.

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Repealed by Manual Letter No. EAS-98-05, effective 12/29/98.

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Repealed by Manual Letter No. EAS-98-05, effective 12/29/98.

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Repealed by Manual Letter No. EAS-98-05, effective 12/29/98.

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**ELIGIBILITY AND ASSISTANCE STANDARDS  
AFDC-FC AND AAP PROGRAMS**

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**AFDC-FC, EA-ANEC, AND AAP PROGRAMS**  
**AFDC-FC PROGRAM PURPOSE**

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## **CHAPTER 45-100 AFDC-FC PROGRAM PURPOSE**

The purpose of the Aid to Families with Dependent Children--Foster Care Program is to provide financial assistance for those children who are in need of substitute parenting and who have been placed in foster care.

### **45-101 DEFINITIONS**

**45-101**

The following definitions shall apply to the terms used in the AFDC-FC Program:

- (a) (1) AFDC-FC means Aid to Families with Dependent Children--Foster Care and is the aid provided on behalf of needy children in foster care who meet the eligibility requirements as specified in department regulations and in applicable state and federal laws.
- (2) Approved Home means a family home which is either exempt from licensure as specified in Section 45-101(a)(2)(A), certified, license-pending as specified in Section 45-101(a)(2)(B), or approved or specified by an Indian tribe as specified in Section 45-101(a)(2)(C):
  - (A) A family home which is exempted from licensure because it is the home of a relative or the home of a nonrelated legal guardian, and which has been determined to be suited to the needs of the child by the social worker or probation officer.
  - (B) A certified, license-pending home which is a family home not exempted from licensure by Health and Safety Code Section 1505 for which a license application is pending and has not been denied and in which the child has been placed by the social worker or probation officer under the authority of a court order or voluntary placement agreement, in accordance with Welfare and Institutions Code Sections 361.2(g), 362.5(c), 727(b) or 16507.5(b) and the social worker or probation officer has certified that the home meets licensing standards for family homes as defined in Title 22, Division 6 of the California Code of Regulations.

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Welfare and Institutions Code Sections 361.2(g), 727(b), and 16507.5(b) provide that the following certification conditions be met:

- 1. A preplacement home visit is made by the placement worker to determine the suitability of the family home.
- 2. The placement worker verifies to the licensing agency in writing that the home lacks any deficiencies which would threaten the physical health, mental health, safety, or welfare of the minor.

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**45-101     DEFINITIONS (Continued)****45-101**

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3.     The placement worker notifies the licensing agency of the proposed placement and determines that the foster family home applicant has filed specific license application documents prior to and after the placement of the minor. If the license is subsequently denied, the minor shall be removed from the home immediately. The denial of the license constitutes a withdrawal of the certification.

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- (C)     A family home which is used only for the placement of an Indian child(ren); and which has been licensed, approved or specified by that Indian child's tribe.
- (3)     Assessment means the written document in the services case record which states the reason necessitating the child's placement into foster care and which identifies the child's problems or needs at the point in time the document is completed.
- (4)     Authority for Placement means the legal basis under which a child is residing in foster care placement.
- (b)     Reserved
- (c)     (1)     Case Plan means "a written document" as defined in Welfare and Institutions Code Section 11400(b) and 45 CFR 1356.21(d).

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- (A)     Welfare and Institutions Code Section 11400(b) provides that a case plan means a written document in the services case record which at a minimum specifies how the child's problems or needs identified in the assessment are to be addressed including:
  1.     The type of home in which the child shall be placed and the appropriateness of the home for meeting the child's needs and
  2.     The agency's plan for ensuring that the child, the family and foster care provider receive services, and the appropriateness of the services provided to the child, in order to meet the child's needs while in foster care and to reunify the child with his or her family or, when reunification is not possible, to facilitate an alternative permanent plan.

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- (B) 45 CFR 1356.21(d) provides that the case plan:
1. Be a discrete part of the case record which is available to the parent(s) or guardian of the foster child;
  2. Include a discussion of how the plan is designed to achieve a placement in the least restrictive (most family-like) setting available and in close proximity to the home of the parent(s), consistent with the best interest and special needs of the child; and
  3. After October 1, 1983, include a description of the services offered and the services provided to prevent the removal of the child from the home and to reunify the family.

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- (2) "Certified Family Home" means a family residence certified by a licensed foster family agency and issued a certificate of approval by that agency as meeting licensing standards, and used only by that foster family agency for placements.
- (3) Certified, License-Pending Home -- See definition of "Approved Home". "Certified, license-pending home" does not apply to certified family homes defined in Section 45-101(c)(2).
- (4) Certified Out-of-State Group Home means a facility:
  - (a) Which is located outside of the State of California,
  - (b) Which would meet the definition of group home as defined in Section 45-101(g)(1) were it located within the State of California, and
  - (c) Which has been certified by the Department as meeting the licensure standards required of group homes operated in California or the Department has granted a waiver to a special licensing standard upon a finding that there exists no adverse impact on health and safety.
- (5) Community Care Licensing Agency means the department or a county welfare department authorized by the department to license family homes and group homes in accordance with Title 22, Division 6, of the California Code of Regulations.
- (6) Compact Administrator means an individual designated by the governor as the Administrator of the Interstate Compact on the Placement of Children.

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- (7) Court Order means only the judicial determinations specified in either Sections 45-101(c)(7)(A) or (B) and made by the juvenile court or by an Indian Tribal Court as defined in Section 45-101(i)(6). In California, the filing of a petition commences proceedings in a juvenile court. If the petition is not dismissed, the following two categories of judicial orders apply:
- (A) Detention order means the order issued by the juvenile court pursuant to Welfare and Institutions Code Section 319 or 636 which permits detention of a child pending a jurisdictional hearing to determine whether the child is to be made a dependent or ward of the court. A detention order is limited to 15 judicial days unless continued by the court. A judicial day is a day on which the court is in session, i.e., not a weekend or court holiday.
- (B) Jurisdictional and Dispositional Orders means the orders issued by the juvenile court which declare the child a dependent or ward of the court and designate to whom the child is to be released.
- (d) (1) Department means the State Department of Social Services.
- (2) Detention Order--See definition of "Court Order".
- (3) Dispositional Order--See definition of "Court Order".
- (e) (1) Eligible Facility means a home that meets the requirements of the AFDC-FC program and in which an eligible child may be placed.
- (f) (1) Family Home means the family residence of a licensee in which 24-hour care and supervision are provided for children and which is licensed by the appropriate community care licensing agency, or a family residence which is approved and which provides such care and supervision.
- (2) Family Reunification Services means services provided to the family and the child in foster care placement for the purpose of safely returning the child to his or her family.
- (3) FFP means federal financial participation and is participation by the federal government in sharing the cost of AFDC-FC payments.
- (4) Former relative means a person related to the child by birth or adoption by virtue of being one of those persons listed in Section 45-101(r)(1)(A) when legal rights to the child are terminated by the filing of a relinquishment with the Department or by court action.
- (5) Foster Care means the 24-hour out-of-home care provided to children whose own families are unable or unwilling to care for them and who are in need of temporary or long-term substitute parenting.

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- (6) "Foster Family Agency" means any individual or organization engaged in the recruiting, certifying, and training of, and providing professional support to, foster parents, or in finding homes or other places for placement of children for temporary or permanent care who require that level of care as an alternative to a group home. Private foster family agencies shall be organized and operated on a nonprofit basis.
- (7) Funding Restriction means either that (a) a ceiling is imposed, in accordance with the Adoptions Assistance and Child Welfare Act of 1980 (P.L. 96-272), on federal matching funds under the AFDC-FC Program due to the federal appropriation in Child Welfare Services; or that (b) Congress has appropriated insufficient funds to cover the full federal match of all audited claims submitted to the federal government for payment.
- (g) (1) Group Home shall be defined in accordance with Welfare and Institutions Code Section 11400(h).

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- (A) The term group home is defined in Welfare and Institutions Code Section 11400(h) as follows:

"'Group Home' means a nondetention privately operated residential home, organized and operated on a nonprofit basis only, of any capacity, that provides services in a group setting to children in need of care and supervision, as required by paragraph (1) of subdivision (a) of Section 1502 of the Health and Safety Code."

- 1. Health and Safety Code Section 1502(a)(1) states: "'Residential facility' means any family home, group care facility, or similar facility determined by the director, for 24-hour nonmedical care of persons in need of personal services, supervision, or assistance essential for sustaining the activities of daily living or for the protection of the individual."

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- (h) Reserved
- (i) (1) Indian means a person who is a member of an Indian tribe, or who is an Alaskan native and a member of a Regional Corporation as defined in 43 USC 1606.
- (2) Indian child(ren) means an unmarried person under 18 years of age who is a member of an Indian tribe, or who is eligible for tribal membership and is the biological child of a tribe member.

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- (3) Indian child s parent means a biological parent of an Indian child; or an Indian who has lawfully adopted an Indian child. Lawful adoptions include adoptions under tribal law or custom. The term does not include the unwed father when paternity has not been acknowledged or established.
- (4) Indian child s tribe means the Indian tribe in which an Indian child is a member or is eligible for membership; or, in the case of an Indian child who is a member of or is eligible for membership in more than one tribe, the Indian tribe with which the Indian child has the more significant contacts.
- (5) Indian tribe means an Indian tribe, band, nation or other organized group or community of Indians recognized as eligible for the services provided to Indians by the Secretary of the Interior because of their status as Indians, including any Alaska native village as defined in 43 USC 1602c.
- (6) Indian Tribal Court means a court with jurisdiction over child custody proceedings, as defined under the Indian Child Welfare Act (25 USC Section 1903(12)), and which has been approved by the Secretary of the Interior as meeting the requirements for reassumption of jurisdiction over child custody proceedings, if applicable.

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Most California tribal courts will require approval of the Secretary of the Interior to take jurisdiction over child custody proceedings, regardless of whether the jurisdiction is exclusive or concurrent.

25 USC Section 1903(12) defines Tribal Court as a court with jurisdiction over child custody proceedings, and which is either a Court of Indian Offenses, a court established and operated under the code of custom of an Indian tribe, or any other administrative body of a tribe which is vested with authority over child custody proceedings.

25 USC Section 1918 sets forth the requirements for reassumption of jurisdiction over child custody proceedings.

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- (7) Infant Supplement is the amount paid to an eligible facility in addition to the AFDC-FC payment for the minor parent for a child living with his/her minor parent.
- (j) (1) Jurisdictional Order--See definition of "Court Order".
- (k) Reserved



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- (l) (1) Legal Guardian means the individual appointed permanent or temporary guardian of the person or of the person and estate of a child by a California court pursuant to Probate Code Section 1514 or 2250, or Section 1440 if guardianship was established prior to January 1, 1984; or Welfare and Institutions Code Section 360 or 366.25(e).
- (m) (1) Multidisciplinary Team means a team consisting of members from the local county social services agency, the county mental health agency, the county probation department, the county superintendent of schools office, and other members identified by the county pursuant to Family Code 7911.1(f).
- (n) Reserved
- (o) Reserved
- (p) (1) Periodic Review means a review of the child's status which is conducted by the juvenile court, an Indian Tribal court which has jurisdiction over civil actions on an Indian reservation, or an administrative panel. Such review shall include:
- (A) A determination of the continuing need for placement in foster care;
  - (B) An evaluation of the goals for the placement and the progress towards meeting such goals;
  - (C) A target date for the child's return home or establishment of an alternate permanent placement;
  - (D) For children placed out-of-state, whether the out-of-state placement continues to be the most appropriate placement for the child and continues to be in the child's best interest; and
  - (E) For children placed out-of-state, whether the out-of-state group home continues to meet the requirements of Family Code Section 7911.1(c).

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<b>45-101</b>	<b>DEFINITIONS (Continued)</b>	<b>45-101</b>
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- (2) Permanent Placement Services means services provided to the child for the purpose of locating and maintaining a placement that can be expected to be permanent, such as adoption, establishment of a legal guardianship or long-term foster care.
- (3) Permanency Planning Hearing means a hearing conducted by the juvenile court or an Indian Tribal court which has jurisdiction over civil actions on an Indian reservation. The purpose of the hearing shall be to establish and maintain a plan for the child's permanent living arrangement, including family reunification, adoption, establishment of a legal guardianship, or long-term foster care. For children placed out-of-state, the court must review whether the out-of-state placement continues to be the most appropriate placement for the child, continues to be in the child's best interests, and whether the out-of-state group home continues to meet the requirements of Family Code Section 7911.1(c).
- (4) Placement Agency means the agency with responsibility for placement and care of an AFDC-FC eligible child.
- (5) Placement and Care means either:
  - (A) The responsibility for the welfare of a child vested in an agency or organization by virtue of such agency or organization having:
    - 1. Been delegated care, custody, and control of a child by the juvenile court,
    - 2. Taken responsibility pursuant to a relinquishment or termination of parental rights on a child.
    - 3. Taken the responsibility of supervising a child detained by the juvenile court pursuant to Welfare and Institutions Code Sections 319 or 636,
    - 4. Signed a voluntary placement agreement for the child's placement; or
  - (B) The responsibility designated to an individual by virtue of his or her having been appointed the child's legal guardian.
- (6) Placement Worker means the individual(s) within the placement agency responsible for the placement, supervision, services case management and provision of services to an AFDC-FC eligible child. This refers to the county welfare department social services worker, county probation officer, or the adoptions worker of a licensed public or private adoption agency or a district adoptions office of the department.

<b>45-101</b>	<b>DEFINITIONS (Continued)</b>	<b>45-101</b>
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- (7) Preplacement Preventive Services means services provided to the child and his or her family prior to placement into foster care for the purpose of preventing or eliminating the need for removal.
- (8) Provider means any individual or corporation which provides foster care to a child and can include licensed foster parents, relative caregivers, legal guardians, certified foster parents, and group homes.
- (9) Public Child Care Institution means a publicly-operated, nonsecure child care facility which has a licensed capacity not exceeding twenty-five children and is licensed as a residential community care facility by the department.
- (10) Public Funds means federal, state, and county funds.
- (q) Reserved
- (r) (1) A Relative means:
  - (A) A person related to the child by birth or adoption who is in within the fifth degree of kinship to the child by virtue of being one of the following:
    - 1. The father, mother, brother, sister, half-brother, half-sister, uncle, aunt, first cousin, first cousin once removed, nephew, niece, or any such person of a preceding generation denoted by the prefixes grand-, great-, or great-great-, or great-great-great.
    - 2. The stepfather, stepmother, stepbrother or stepsister.
    - 3. The spouse of any person named in Section 45-101(r)(1)(A)1. or 2. above, even after the marriage has been terminated by death or dissolution.

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- a. In Norman v. McMahon, 225 Cal. App. 3d 1450 (1990), the court held that persons delineated in Section 45-101(r)(1)(A)3. are not relatives for purposes of the State AFDC-FC Program. Accordingly, a child placed with any person listed in Section 45-101(r)(1)(A)3. may be eligible for AFDC-FC benefits.

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- (B) For AFDC-FC purposes, when a parent's rights to a child are terminated by the filing of a relinquishment with the Department or by court action, that parent and his or her relatives are no longer considered to be the child's relatives.

<b>45-101</b>	<b>DEFINITIONS (Continued)</b>	<b>45-101</b>
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- (2) Relinquished Child means a child who has been given up for adoption by one or both parents to a licensed public or private adoption agency or to a district adoptions office of the department.
- (s) Reserved
- (t) (1) Termination of parental rights and responsibilities with respect to a child as the result of an order of the court issued under Family Code Section 7800 et. seq., Family Code Section 7660 et. seq., or Welfare and Institutions Code Section 366.26.
- (u) Reserved
- (v) (1) Voluntary Placement is as defined in Welfare and Institutions Code Section 11400. Voluntary placements which meet the criteria of Welfare and Institutions Code Section 11400 and which occurred on or after January 1, 1983 shall be deemed to meet the requirements of this regulation.

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Welfare and Institutions Code Section 11400 states in part:

"Voluntary Placement" means an out-of-home placement of a minor by (1) the county welfare department after the parents or guardians have requested the assistance of the county welfare department and have signed a voluntary placement agreement; or (2) the county welfare department, a licensed public or private adoption agency, or the department acting as an adoption agency, after the parents have requested the assistance of either the county welfare department, the licensed public or private agency, or the department acting as an adoption agency for the purpose of adoption planning, and have signed a voluntary placement agreement.

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- (2) Voluntary Placement Agreement is as defined in Welfare and Institutions Code Section 11400. Voluntary placement agreements which meet the criteria of Welfare and Institutions Code Section 11400 and which were entered into on or after January 1, 1983 shall be deemed to meet the requirements of this regulation.

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Welfare and Institutions Code Section 11400 states, in part:

"Voluntary placement agreement" means a written agreement between either the the county welfare department, a licensed public or private adoption agency, or the department acting as an adoption agency, and the parents or guardians of a minor which specifies the terms of the voluntary placement.

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NOTE: Authority cited: Sections 10553 and 10554, Welfare and Institutions Code. Reference: Sections 1502(a)(1) and 1505, Health and Safety Code; Sections 360, 361.2(g), 361.3 (as amended by Assembly Bill 1544, Chapter 793, Statutes of 1997 and as further amended by AB 2773, Chapter 1056, Statutes of 1998), 366, 366.21, 366.26, 366.3, 727.1, 11400(b), 11400(h), 11400(m), 11401(b), 11401(e), 11402, 11404.2, 11466.24, and 16507.5(b), Welfare and Institutions Code; Sections 7660 et seq., 7800 et seq., and 7911.1, Family Code; Section 2250, Probate Code; 45 CFR 1356.21(d); Public Law 95-608; 25 USC 1915; and 42 USC 606.

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**AFDC-FC, EA-ANEC, AND AAP PROGRAMS**  
**AFDC-FC ELIGIBILITY**

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<b>45-200</b>	<b>AFDC-FC ELIGIBILITY</b>	<b>45-200</b>
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- .1 To be eligible for AFDC-FC, a child shall meet the requirements under either the federal AFDC-FC Program or the state AFDC-FC Program and all requirements in Chapter 45-300 which apply to that child.
  - .11 Federal AFDC-FC Program
    - .111 A child shall meet all general requirements specified in Section 45-201 and all federal requirements specified in Section 45-202.
  - .12 State AFDC-FC Program
    - .121 A child shall meet all general requirements specified in Section 45-201 and all state requirements specified in Section 45-203.
- .2 An infant supplement shall be paid for the care and supervision of a child living with his/her minor parent in the same eligible facility when the minor parent meets either of the requirements in Sections 45-200.11 or .12.
- .3 The payment sections MPP Section 44-206 shall be effective February 28, 1989 and MPP Section 45-302.21 shall be effective March 1, 1989.

<b>45-201</b>	<b>GENERAL AFDC-FC REQUIREMENTS</b>	<b>45-201</b>
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- .1 The child shall meet:
  - .11 The age requirements of Chapter 42-100;
    - .111 When a child who is in foster care reaches age 18, the child shall continue to be eligible for AFDC-FC up to age 19, provided all the following conditions are met:
      - (a) The child was receiving AFDC-FC and attending high school or a vocational-technical training program on a full-time basis prior to reaching age 18;
      - (b) The child continues to:
        - (1) Meet the AFDC-FC eligibility requirements of this section;
        - (2) Reside in foster care;

<b>45-201</b>	<b>GENERAL AFDC-FC REQUIREMENTS (Continued)</b>	<b>45-201</b>
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- (3) Attend on a full-time basis either a high school or, if he/she has not completed high school, a vocational-technical training program which cannot result in a college degree as specified in Section 42-101.2 provided he/she is reasonably expected to complete either program before reaching age 19. Full-time attendance must be defined and verified by child's school.
  - (c) The child and the placement agency have signed a mutual agreement which documents the continued need for foster care placement. The agreement shall be signed prior to or within the month the child reaches age 18. A mutual agreement shall not be required if the placement is due to a court order which remains in effect or if the child is not capable of making an informed agreement. If the court order is dismissed subsequent to the month in which the child reaches age 18, a mutual agreement must be executed within the month the dismissal occurs.
  - (1) The income maintenance case record shall contain a statement from the placement worker, on the FC 5 or a substitute form approved by the department, which certifies that the mutual agreement or the court order is in the services case record or that the child is not capable of making an informed agreement. This certification shall occur prior to or within the month the child reaches age 18 and at redetermination of the child's AFDC-FC eligibility.
- .12 The property requirements in Chapter 42-200;
- .121 Pursuant to Section 42-213.2aa., any cash savings and interest accumulated pursuant to the Independent Living Program (ILP) written transitional independent living plan and retained by a child who is 16 years of age or older and is participating in the ILP is exempt for purposes of determining eligibility and grant amount.
  - (a) Repealed by Manual Letter No. EAS-91-09, effective 5/28/91.
  - (b) Repealed by Manual Letter No. EAS-91-09, effective 5/28/91.
  - (c) Repealed by Manual Letter No. EAS-91-09, effective 5/28/91.

<b>45-201</b>	<b>GENERAL AFDC-FC REQUIREMENTS (Continued)</b>	<b>45-201</b>
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- .122 There is no limit to the amount that may be retained under Section 45-201.121.

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- .123 See Sections 31-002(i)(1), (i)(1)(A), and 31-525 for the definition and description of ILP.

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- .13 The residence requirements in Chapter 42-400;
- .14 The citizenship and alienage requirements in Subchapter 42-430;
- .15 The social security enumeration requirements in Section 40-105.24; and
- .16 The income requirements in Chapter 44-100.
- .161 Pursuant to Section 44-111.261, income and incentive payments earned by a child 16 years of age or older who is participating in the ILP are exempt as income for purposes of eligibility and grant determination when received as part of the ILP written transitional independent living plan.
- (a) Repealed by Manual Letter No. 91-09, effective 5/28/91.
- (b) Repealed by Manual Letter No. 91-09, effective 5/28/91.
- (c) Repealed by Manual Letter No. 91-09, effective 5/28/91.
- .162 There is no limit to the amount exempted under Section 45-201.161.
- .163 Repealed by Manual Letter No. 91-09, effective 5/28/91.

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- .164 See Sections 31-002(i)(1), (i)(1)(A), and 31-325 for the definition and description of ILP.

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<b>45-201</b>	<b>GENERAL AFDC-FC REQUIREMENTS (Continued)</b>	<b>45-201</b>
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- .2 The AFDC-FC rate as determined in Chapter 11-400, including amounts for specialized care but not including special need payments, shall constitute the need standard for a child receiving AFDC-FC and shall be greater than the child's net nonexempt income as determined in Chapter 44-100. Income received by the child's parents shall not be used to determine the AFDC-FC aid payment unless the parents make their income and/or income the parents receive on behalf of the child available to meet the child's needs.
- .3 The following child support requirements:
- .31 The county shall provide the district attorney with the information specified in .311 through .313 below:
- .311 A completed referral form;
- .312 Any information the county has which indicates that the district attorney should not proceed with child support enforcement including an agreement to establish good cause for not cooperating with the district attorney if one has been completed by either or both of the child's parents;
- .313 Any other forms or information, including a Child Support Questionnaire (CA 2.1), requested by the district attorney.
- .32 The general requirements of Sections 43-200, 43-201.2 and 43-203 shall be met.
- .4 The following services requirements shall be met:
- .41 The agency with responsibility for placement and care of the child shall:
- .411 Provide preplacement preventive services to children placed into foster care on or after October 1, 1983, and document in the services case record why provision of these services was not successful in maintaining the child with his or her family.
- (a) The provision of preplacement preventive services shall not be required when the current authority for placement of the child is either:
- (1) relinquishment of the child by one or more parents or termination of the parental rights of one or more parents; or
- (2) nonrelated legal guardianship.

<b>45-201</b>	<b>GENERAL AFDC-FC REQUIREMENTS (Continued)</b>	<b>45-201</b>
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- .412 Develop a written assessment and case plan within 30 days from the date the agency became involved with the child or the date of the child's most recent placement, whichever is later. Where the child is a minor parent and his/her child is living in the same eligible facility, the assessment shall include the minor parent's child.
- (a) Such assessment and case plan shall be updated in conjunction with the periodic reviews specified in .42 below.
  - (b) Such assessment and case plan for a child living with a nonrelated legal guardian shall be updated no less frequently than once every six months.
- .413 Provide family reunification services or, when return of the child to his or her own family is documented in the services case record as being inappropriate, provide permanent placement services.
- .414 **Visitation**
- (a) For children placed in out-of-state or California group homes, visit the child no less frequently than once a calendar month with at least a two-week period between visits.
  - (b) For children placed in any other eligible facility, visit the child no less frequently than once every six months.
- .42 Except for a child living with his or her nonrelated legal guardian, periodic reviews shall be conducted on behalf of the child no less frequently than once every six months from the date of placement into foster care.
- .43 Except for a child living with his or her nonrelated legal guardian, permanency planning hearings shall be conducted on behalf of the child within 18 months of the date of placement into foster care and shall occur no less frequently than once every 12 months following the first hearing throughout the period of foster care placement.
- (a) Subsequent permanency planning hearings shall not be required for a child who is free for adoption and placed in the adoptive home identified in the previous permanency planning hearing pending finalization of the adoption.
- .44 **Assessment and placement recommendation**
- .441 Effective March 1, 1999, an assessment and placement recommendation must be made by a multidisciplinary team prior to the placement of a child in an out-of-state group home.

<b>45-201</b>	<b>GENERAL AFDC-FC REQUIREMENTS (Continued)</b>	<b>45-201</b>
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.442 For children placed in an out-of-state group home prior to August 19, 1998, an assessment and placement recommendation must be obtained by February 18, 1999.

.443 For children placed in an out-of-state group home between August 19, 1998, and February 28, 1999, an assessment and placement recommendation must be obtained no later than 6 months from the date of placement.

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(a) See Sections 31-066.1 through .6 for guidance on the assessment and placement recommendation process.

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.45 The income maintenance case record shall contain a statement from the placement worker, on the SOC 158A form which certifies that the above requirements have been met. This certification shall occur at the time of application, at redetermination of the child's AFDC-FC eligibility, and when there is a change in the authority for placement.

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.46 Division 31 provides further information regarding services requirements.

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.5 The application requirements in Section 40-100 shall be met.

.6 A child living with his/her AFDC-FC eligible minor parent in the same eligible facility does not need a separate eligibility determination. The eligibility for the infant supplement is based on the minor parent's AFDC-FC eligibility determination.

.7 A redetermination of all of the foster child's circumstances which are subject to change shall be completed once every six months.

.71 At the time of the six month redetermination, the parent or legal guardian shall complete the "Statement of Facts Supporting Eligibility for Assistance" (CA 2 1/87) or, at county option, the "Statement of Facts Supporting Eligibility for AFDC-Foster Care (FC)" (FC 2). If the parent or legal guardian is unavailable or uncooperative, the placement worker shall complete the "Statement of Facts Supporting Eligibility for AFDC-Foster Care (FC)" (FC 2).

<b>45-201</b>	<b>GENERAL AFDC-FC REQUIREMENTS (Continued)</b>	<b>45-201</b>
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- .72 Examples of a foster child's circumstances which are subject to change include, but are not limited to, deprivation, financial need, authority for placement, eligible facility, etc.

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NOTE: Authority cited: Sections 10553 and 10554, Welfare and Institutions Code. Reference: Sections 361.21, 366.25, 366.3, 727.1, 11008.15, 11155.5, 11400(b), 11401(b), 11402, 11403, and 11404.1, 16516.5, Welfare and Institutions Code; 7911.1, Family Code; and 45 CFR 1356.21(d).

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**45-202      FEDERAL AFDC-FC PROGRAM****45-202****.1      Deprivation**

- .11    The child shall be deprived of parental support or care by the death, physical or mental incapacity, unemployment or absence of the child's parent(s) as specified in Chapter 41-400. This determination shall be made in conjunction with the AFDC-FG/U linkage requirement in .3 below.
- .12    For redetermination purposes as specified in Section 45-201.7, continuing deprivation of parental support or care shall be reevaluated based upon the original home of removal.
  - .121   Continuing deprivation is automatically met in those cases in which deprivation was originally based on the death of either parent, or in which the child has been relinquished following the initial determination of deprivation.
  - .122   If the whereabouts of the parent(s) cannot be determined by the CWD at the time of the redetermination, documentation in the case record shall demonstrate a good faith effort to locate the parent(s) which shall allow federal linkage to continue.
  - .123   If the parent(s) refuses to cooperate, the CWD shall document a good faith effort to obtain the required information. If this effort indicates a continued deprivation status or if no information to the contrary is found, federal linkage shall continue.
  - .124   A subsequent change in the child's circumstances shall not affect the initial determination of deprivation.

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- .125   For example, in a two-parent household, if the principal wage earner returns to full-time employment, deprivation would no longer exist for the child in foster care for those months the principal wage earner was employed full-time. However, if the principal wage earner becomes unemployed again, then the child's status would change from ineligible to eligible and federal financial participation would be available for the foster care payment.

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<b>45-202</b>	<b>FEDERAL AFDC-FC PROGRAM (Continued)</b>	<b>45-202</b>
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.2 With Whom Child Must be Placed

.21 The child shall be placed with either of the following:

.211 A nonrelative.

.212 A relative, other than the child's birth or adoptive parents, provided the child is otherwise federally eligible.

(a) The caretaker relative of such child shall have the option of selecting either AFDC-FC or the AFDC-FG/U Program.

(1) If AFDC-FC is selected, the case shall be treated in all respects as an AFDC-FC case.

(2) If AFDC-FG/U is selected, the case shall be treated in all respects as an AFDC-FG/U case.

.3 AFDC-FG/U Linkage Determination

.31 (Reserved)

.32 (Reserved)

.33 The child shall have been linked to the federal Aid to Families with Dependent Children - Family Group/Unemployed (AFDC-FG/U) Program as it existed on July 16, 1996, during the month in which the petition was filed with the juvenile court, which led to the child's placement into foster care pursuant to a detention or dispositional order or the month in which the voluntary placement agreement was signed.

.331 This linkage requirement is met if one of the following conditions exists during the month in which the petition was filed or the voluntary placement agreement was signed:

(a) The child was living in the home of the parent or relative from whom removed and would have been eligible for federal AFDC-FG/U had application been made.

(b) The child was no longer living in the home of the parent or relative from whom removed, but would have been eligible for federal AFDC-FG/U based on that parent's or relative's home had he/she been living there and had application been made.

**45-202      FEDERAL AFDC-FC PROGRAM (Continued)****45-202**

- (1) To meet this condition, the child shall have been living with the parent or relative from whom removed, within any of the six months prior to the month in which the petition was filed with the juvenile court, which led to the child's placement into foster care pursuant to a detention or dispositional order.

.332 **Section 45-202.332 will not become operative unless and until it has been approved by the federal Department of Health and Human Services as part of the California Title IV-E State Plan.**

If the child does not meet the conditions listed in Section 45-202.331, the linkage requirement is met if the following applies:

- (a) The county has information that the child resided with any relative as defined in Section 45-101(r)(1)(A) 3.a. during the petition month or within any of the six months prior to the month in which the petition was filed or the voluntary placement agreement was signed, and can establish that the child would have been eligible for AFDC-FG/U, based on that home, had application been made while the child was living there.

.34 Except as provided in Section 45-202.341, the determination that the child met the federal eligibility criteria of linkage to federal AFDC-FG/U specified in Section 45-202.33 shall be a one-time determination. Therefore, subsequent changes in the child's placement or circumstances, except as specified in Section 45-202.341, shall not affect this initial linkage determination. However, if as a result of such change some other general or federal eligibility requirement is not met, FFP shall not be available until the child meets all other federal and general eligibility requirements.

.341 If the child is returned by the court on a nontemporary basis to the home of the parent or relative from whose home the child had been removed, FFP shall not be available unless a new or supplemental petition is filed and a new detention or dispositional order is made to remove the child from the parent's or relative's home and place him/her in foster care again. The month of the new or supplemental petition shall then be used to determine the aid linkage for federal eligibility and the new detention or dispositional order would determine the authority for placement requirement.

.4 Authority for Placement

.41 The child shall meet one of the following criteria for placement in foster care:

.411 Removal by Court Order

- (a) The child shall be removed from the home of a parent or relative as the result of a court order which specifies:

**45-202      FEDERAL AFDC-FC PROGRAM (Continued)****45-202**

- (1) That the responsibility for placement and care be vested in one of the agencies listed in Section 45-202.61; and
  - (2) That continuance in the home of that parent or relative would be contrary to the child's welfare; and
  - (3) That, if the child is placed into foster care on or after October 1, 1983, reasonable efforts have been made to prevent or eliminate the need for removal of the child from his or her home and to make it possible for the child to return to his or her home.
- (b) The court order shall result in the child's placement in foster care with a nonrelative or with a different relative than the one from whose home he/she was removed.
- (1) This requirement shall be determined to be met if the child was absent from the parent's or relative's home in the month the petition, which initiated court action for removal, was filed, provided the child had resided with such parent or relative within any of the six months prior to the month that petition was filed. For example, the child was living with a grandparent for any reason in the month the petition was filed. However, within any of the six months preceding the filing of the petition, which initiated court action, the child lived with the parent from whom the child was removed. This child shall be considered removed from the home of his/her parent and placed with the grandparent. Furthermore, the linkage determination shall be based on that parent's home as provided in Section 45-202.313.
- (c) Subsequent dismissal of the jurisdictional and dispositional orders shall not result in the loss of FFP provided all other general and federal AFDC-FC requirements continue to be met; and
- (1) The court order was dismissed because the child turned 18 and the child meets the requirements of Section 45-201.111; or
  - (2) The court order was dismissed because, in accordance with Section 45-203.311, the child was relinquished or a termination of parental rights of one or both parent(s) was granted and placement and care is with one of the agencies specified in Section 45-202.61.

<b>45-202</b>	<b>FEDERAL AFDC-FC PROGRAM (Continued)</b>	<b>45-202</b>
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.412 Removal by Voluntary Placement

- (a) The child shall be removed from the home of a parent or guardian as a result of a voluntary placement agreement. This out-of-home placement of a minor without adjudication by the juvenile court shall occur only when both of the following conditions exist:
  - (1) There is a mutual decision between the child's parent or guardian and the placing agency; and
  - (2) There is a written binding agreement between either the county welfare department, a licensed public or private adoption agency or the Department acting as an adoption agency, and the parent or guardian of a minor.

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<b>45-202</b>	<b>FEDERAL AFDC-FC PROGRAM (Continued)</b>	<b>45-202</b>
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- (b) The voluntary placement agreement shall specify the legal status, rights and obligations of the child; the rights and obligations of the placing agency; the rights and obligations of the parent or guardian; and any other relevant factors.
  - (c) Time Limitations
    - (1) A child voluntarily placed shall be eligible for AFDC-FC payments for a period up to 180 days commencing with the date one of the listed agencies in Section 45-202.412(a)(2) assumes responsibility under a voluntary placement agreement and provided all other eligibility requirements are met.
    - (2) The voluntary placement agreement shall be signed prior to or at the time of placement and shall state the beginning date of placement and planned return date of the child to his/her home. This period shall not exceed 180 days.
    - (3) A child voluntarily placed shall be eligible for AFDC-FC payments for subsequent voluntary placements. However, a new 180-day period of eligibility for AFDC-FC payments shall commence only if the child's prior voluntary placement was previously terminated and the child was returned to his/her home. Any subsequent placements shall meet the requirements of Sections 45-202.412(c)(1) and (2).
- .42 The income maintenance case record shall contain a statement from the placement worker, on the SOC 158A form, which certifies that a copy of the court order or voluntary placement agreement is in the services case record. If Section 45-202.411(c)(2) applies, the case record shall also contain a statement from the placement worker, on the FC 5 or a substitute form approved by the Department, which certifies that the child meets the requirements of Section 45-203.311. This certification shall occur at the time of application, at redetermination of the child's AFDC-FC eligibility, and when there is a change in the authority for placement.
- .5 Eligible Facilities
- .51 Except as provided in Section 45-202.52, the child shall be residing in one of the following eligible facilities:
- .511 The approved home of a relative.
  - .512 An approved home which is certified, license-pending.
  - .513 A family home licensed by the appropriate community care licensing agency.

<b>45-202</b>	<b>FEDERAL AFDC-FC PROGRAM (Continued)</b>	<b>45-202</b>
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- .514 A certified family home certified as meeting licensing standards by a nonprofit foster family agency that is licensed by the department.
- .515 A private, nonprofit group home licensed by the department, provided the placement worker has determined that such placement is necessary to meet the treatment needs of the child and that the facility offers those treatment services.
- .516 In the case of an Indian child, a facility specified in Section 45-202.511 through .515 or family home as defined in Section 45-101(a)(2)(C).
- .517 In the case of a child placed out of the State of California, the child shall be placed in any of the following:
  - (a) An appropriately licensed child care facility which accords the child the same personal rights accorded children as specified in Title 22 California Code of Regulations, Section 80072.
  - (b) A certified out-of-state group home; or
  - (c) An out-of-state group home which has not been certified by the Department but which has been approved by the Compact Administrator.

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Title 22 California Code of Regulations, Section 80072 provides the following conditions be met:

- (a) Each client shall have personal rights which include, but are not limited to, the following:
  - (1) To be accorded dignity in his/her personal relationships with staff and other persons.
  - (2) To be accorded safe, healthful and comfortable accommodations, furnishings and equipment to meet his/her needs.
  - (3) To be free from corporal or unusual punishment, infliction of pain, humiliation, intimidation, ridicule, coercion, threat, mental abuse, or other actions of a punitive nature, including but not limited to interference with the daily living functions, including eating, sleeping or toileting; or withholding of shelter, clothing, medication, or aids to physical functioning.

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**HANDBOOK CONTINUES**

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## 45-202 FEDERAL AFDC-FC PROGRAM (Continued)

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- (4) To be informed and to have his/her authorized representative, if any, informed by the licensee of the provisions of law regarding complaints including, but not limited to, the address and telephone number of the complaint receiving unit of the licensing agency, and of information regarding confidentiality.
- (5) To be free to attend religious services or activities of his/her choice and to have visits from the spiritual advisor of his/her choice.
  - (A) Attendance at religious services, in or outside of the facility, shall be on a completely voluntary basis.
- (6) To leave or depart the facility at any time.
  - (A) The licensee shall not be prohibited by this provision from setting curfews or other house rules for the protection of clients.
  - (B) This provision shall not apply to minors and other clients for whom a guardian, conservator, or other legal authority has been appointed.
- (7) Not to be locked in any room, building, or facility premises by day or night.
  - (A) The licensee shall not be prohibited by this provision from locking exterior doors and windows or from establishing house rules for the protection of clients provided the clients are able to exit the facility.
  - (B) The licensee shall be permitted to utilize means other than those specified in (7)(A) for securing exterior doors and windows only with the prior approval of the licensing agency.
- (8) Not to be placed in any restraining device. Postural supports may be used if they are approved in advance by the licensing agency as specified in (8)(A) through (F) below.

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- (A) Postural supports shall be limited to appliances or devices including braces, spring release trays, or soft ties, used to achieve proper body position and balance, to improve a client's mobility and independent functioning, or to position rather than restrict movement including, but not limited to, preventing a client from falling out of bed, a chair, etc.
  - 1. Physician-prescribed orthopedic devices such as braces or casts used for support of a weakened body part or correction of body parts are considered postural supports.
- (B) All requests to use postural supports shall be in writing and include a written order of a physician indicating the need for such supports. The licensing agency shall be authorized to require other additional documentation in order to evaluate the request.
- (C) Approved postural supports shall be fastened or tied in a manner which permits quick release by the resident.
- (D) The licensing agency shall approve the use of postural supports only after the appropriate fire clearance, as required by Section 80020(a) or (b), has been secured.
- (E) The licensing agency shall have the authority to grant conditional and/or limited approvals to use postural supports.
- (F) Under no circumstances shall postural supports include tying of, or depriving or limiting the use of, a resident's hands or feet.
  - 1. A bed rail that extends from the head half the length of the bed and used only for assistance with mobility shall be allowed with prior licensing approval. Bed rails that extend the entire length of the bed are prohibited.

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**HANDBOOK CONTINUES**

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## 45-202 FEDERAL AFDC-FC PROGRAM (Continued)

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- (G) Protective devices including, but not limited to, helmets, elbow guards, and mittens which do not prohibit a client's mobility but rather protect the client from self-injurious behavior are not to be considered restraining devices for the purpose of this regulation. Protective devices may be used if they are approved in advance by the licensing agency as specified below.
1. All requests to use protective devices shall be in writing and include a written order of a physician indicating the need for such devices. The licensing agency shall be authorized to require additional documentation including, but not limited to, the Individual Program Plan (IPP) as specified in Welfare and Institutions Code Section 4646, and the written consent of the authorized representative, in order to evaluate the request.
  2. The licensing agency shall have the authority to grant conditional and/or limited approvals to use protective devices.
- (9) To receive or reject medical care, or health-related services, except for minors and other clients for whom a guardian, conservator, or other legal authority has been appointed.
- (b) All clients, or their authorized representative(s), shall be personally advised of and given at admission a copy of the rights specified in (a)(1) through (9) above and in the applicable Personal Rights sections of Chapters 2 through 7.
- (c) The information specified in (b) above shall be prominently posted in areas accessible to such clients and their visitors.
- (d) The licensee shall ensure that each client is accorded the personal rights as specified in this section and the applicable sections of Chapters 2 through 7.

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- .518 The approved home of a former relative.
- .52 An otherwise federally eligible child shall be eligible when placed in a public child care institution subject to the following conditions:
- .521 AFDC-FC funding for a child placed in public child care institutions shall be limited as specified in (a) or (b) below. AFDC-FC funding may be continued beyond these time limits only when the child is moved to an eligible facility specified in .51 and all other requirements continue to be met.
- (a) AFDC-FC funding for emergency shelter care in a public child care institution shall be available for up to thirty days in any consecutive twelve-month period in lieu of Other County Social Services funds; or

<b>45-202</b>	<b>FEDERAL AFDC-FC PROGRAM (Continued)</b>	<b>45-202</b>
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(b) AFDC-FC funding for nonemergency shelter care in a public child care institution shall be available for up to ninety days within any consecutive twelve-month period when;

(1) the child's placement in one or more eligible facilities has been unsuccessful as a result of the child's behavior and/or treatment needs; and

(2) the agency with placement and care responsibility has determined that no appropriate eligible facility as specified in .51 above, is available.

.522 AFDC-FC funding shall be available under the provisions of .52 only during such federal fiscal year when no funding restriction exists.

.53 The income maintenance case record shall contain a statement from the placement worker, on the SOC 158A form which certifies that the child has been placed in one of the above eligible facilities. This certification shall occur at the time of application, at redetermination of the child's AFDC-FC eligibility, when the child is moved to a different facility and when there is a change in the licensing status of the facility in which the child has been placed.

.6 Placement and Care

.61 Responsibility for placement and care shall be vested in one of the following agencies:

.611 A county welfare department.

.612 A county probation department, provided there is in effect a written agreement with the county welfare department as specified in Chapter 29-400 that the services required in Section 45-201.4 shall be performed by the county probation department.

.613 A licensed public adoption agency which is the same governmental agency as the county welfare department.

.614 A licensed public adoption agency which is a governmental agency separate from the county welfare department, provided there is in effect a written agreement with the county welfare department as specified in Chapter 29-400 that the services required in Section 45-201.4 shall be performed by that adoption agency.

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- .615 A district adoptions office of the department, provided the services required in Section 45-201.4 are performed by the adoptions office.
- .62 FFP shall not be available for children living with nonrelated legal guardians unless the juvenile court order remains in effect and specifies that responsibility for placement and care is vested in one of the agencies specified in .61 above.

NOTE: Authority cited: Sections 10553 and 10554, Welfare and Institutions Code. Reference: Sections 366.26, 11400(m), 11400(o), 11401(b) and (e), 11401(f), 11402, 11402.1, and 16507.4, Welfare and Institutions Code; Sections 7660 et. seq., 7800 et. seq., and 7911.1, Family Code; Section 1505, Health and Safety Code; Public Law 95-608; 25 USC 1915; Public Law 96-272; 45 CFR 1356.30; 42 USC 606; 42 USC 672(a)(4); Sections 80072, 84072, 84072.1, and 84072.2, Title 22, California Code of Regulations; Capitola Land et al. v. Anderson, 55 Cal. App. 4th 69, 63 Cal.Rptr.2d 717, (1997); and Anderson v. Superior Court, 68 Cal.App. 4th 1240, 80 Cal.Rptr.2d 891, (1998).

<b>45-203</b>	<b>STATE AFDC-FC PROGRAM</b>	<b>45-203</b>
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- .1 Deprivation
- .11 A child shall be considered deprived of parental support or care when placed in foster care in accordance with a court order or a services determination of the need for foster care or when living with a nonrelated legal guardian.
- .2 With Whom Child Must Be Placed
- .21 The child shall be placed with a nonrelative or be living with a nonrelated legal guardian.

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- .211 No aid shall be paid on behalf of a child who is living in the same home as his/her birth or adoptive parent(s) as specified in Section 45-302.2.

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- .22 In the case of an Indian child, the child may be placed with a relative pursuant to the Indian Child Welfare Act.
- .3 Authority for Placement
- .31 The child shall meet one of the following criteria:
- .311 The child shall either have been relinquished for purposes of adoption by one or both parents to a licensed public or private adoption agency, or to a district adoptions office of the department, or termination of parental rights of one or both parents shall have been granted.

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- .312 The child shall be living with a nonrelated legal guardian (see Special Provisions in Section 45-203.61).
- .313 The child was placed pursuant to a court order which remains in effect and specifies:
- (a) That the responsibility for placement and care be vested in one of the agencies listed in Section 45-203.51; and
  - (b) That continuance in the home of the parent, guardian, or relative from whom removed would be contrary to the child's welfare; and
  - (c) That, if the child was placed into foster care on or after January 1, 1986, reasonable efforts have been made to prevent or eliminate the need for removal of the child from his or her home and to make it possible for the child to return to his or her home; or
- .314 The child was placed by a parent or guardian under a voluntary placement agreement (see Special Provisions in Section 45-203.63).
- .32 The authority for placement as described under .31 shall be considered to continue for a child aged 18, who was in placement under an authority for placement specified in .311 through .314 above prior to reaching age 18, provided the requirements of Section 45-201.111 are met.
- .33 The income maintenance case record shall contain a statement from the placement worker, on the SOC 158A (11/88) form which certifies that:
- .331 The child meets the authority for placement requirement in .311 above; or
- .332 A copy of one of the following documents granting authority for placement is in the services case record:
- (a) Letters of Guardianship of the Person or of the Person and Estate.
  - (b) The court order.
  - (c) The voluntary placement agreement.

This certification shall occur at the time of application, at redetermination of the child's AFDC-FC eligibility and when there is a change in the authority for placement.

**45-203 STATE AFDC-FC PROGRAM (Continued)****45-203****.4 Eligible Facilities**

.41 The child shall be residing in one of the following eligible facilities:

.411 The approved home of a nonrelated legal guardian or the home of a former nonrelated legal guardian when the guardianship of a child who is otherwise AFDC-FC eligible has been dismissed due to the child's attaining age 18.

.412 An approved home which is certified, license pending.

.413 A family home licensed by the appropriate community care licensing agency.

.414 A certified family home certified as meeting licensing standards by a nonprofit foster family agency that is licensed by the department.

.415 A private, nonprofit group home licensed by the department, provided the placement worker has determined that such placement is necessary to meet the treatment needs of the child and that the facility offers such treatment services.

.416 In the case of an Indian child, a facility specified in Section 45-203.411 through .415 or family home as defined in Section 45-101(a)(2)(C).

.417 In the case of a child placed out of the State of California, the child shall be placed in either of the following:

(a) An appropriately licensed child care facility which accords the child the same personal rights accorded children as specified in Title 22 California Code of Regulations, Section 80072;

(b) A certified out-of-state group home; or

(c) An out-of-state group home which has not been certified by the Department but which has been approved by the Compact Administrator.

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See Section 45-202.517 for relevant part of Title 22, California Code of Regulations, Section 80072.

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<b>45-203</b>	<b>STATE AFDC-FC PROGRAM (Continued)</b>	<b>45-203</b>
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- .42 The income maintenance case record shall contain a statement from the placement worker, on the SOC 158A form that the child has been placed in one of the above eligible facilities. This certification shall occur at the time of application, at redetermination of the child's AFDC-FC eligibility, when the child is moved to a different facility and when there is a change in the licensing status of the facility in which the child has been placed.

.5 Placement and Care

- .51 Except for children living with nonrelated legal guardians or placed voluntarily prior to January 1, 1982, responsibility for placement and care shall be vested in one of the following agencies:

.511 A county welfare department.

.512 A county probation department, provided there is in effect a written agreement with the county welfare department, as specified in Chapter 29-400, that the services required in Section 45-201.4 shall be performed by the county probation department.

.513 A licensed public adoption agency which is the same governmental agency as the county welfare department.

.514 A licensed private adoption agency provided the services required in Section 45-201.4 are performed by the adoption agency.

.515 A licensed public adoption agency which is a governmental agency separate from the county welfare department, provided there is in effect a written agreement with the county welfare department, as specified in Chapter 29-400, that the services required in Section 45-201.4 shall be performed by that adoption agency.

.516 A district adoptions office of the department, provided the services required in Section 45-201.4 are performed by the adoptions office.

.6 Special Provisions

.61 Children with Nonrelated Legal Guardians

.611 A child living with a nonrelated legal guardian shall be eligible for AFDC-FC provided:

- (a) All general AFDC-FC requirements specified in 45-201.1 through 45-201.3 are met.
- (b) The state requirements specified in .1 and .4 above are met.

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- (c) The legal guardian cooperates with the county welfare department in its provision of the social services specified in Section 45-201.4. When the legal guardian is not cooperating, the provisions of Section 45-302.241 shall apply.

.612 The county welfare department shall provide the social services specified in Section 45-201.4.

.62 (Repealed by Manual Letter No. 84-65.)

.63 Children in Voluntary Placement

.631 After January 1, 1983, the decision regarding the need for a child's voluntary placement shall be made by the county welfare department, a licensed public or private adoption agency, or the department and shall not be delegated to any other individual or agency.

.632 Time Limitations

Except as provided in (a), (b), and (c) below, AFDC-FC funding for voluntarily placed children shall be available for a maximum of six months for each child provided all other eligibility requirements continue to be met. The six months need not be one continuous voluntary placement. If more than one placement occurs, the aggregate AFDC-FC payments for all the voluntary placements of the same child shall not exceed a total of six months.

- (a) If placed voluntarily prior to January 1, 1981, the child shall be eligible for AFDC-FC payments provided all other eligibility requirements continue to be met.
- (b) If placed voluntarily on or after January 1, 1981 and before January 1, 1982, the child may continue to receive AFDC-FC payments until January 1, 1982, provided all other eligibility requirements continue to be met. After January 1, 1982, the provisions of .632 above shall apply.
- (c) If the authority for placement changes from a voluntary placement to another authority for placement specified in Sections 45-202.4 or 45-203.31, the six-month time limitation no longer applies.

NOTE: Authority cited: Sections 10553 and 10554, Welfare and Institutions Code. Reference: Sections 366.26, 11400(g) and (h), 11401(c), 11401(e), 11402, and 11402(c) and (d); Welfare and Institutions Code; Sections 7660 et. seq., 7800 et seq., and 7911.1, Family Code; and Public Law 95-608, 25 USC 1915.